

AN EVALUATION OF LAW ENFORCEMENT APPLICATION OF THE TRAFFICKING
VICTIMS PROTECTION ACT “3P” STRATEGY FROM 2003 TO 2014

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Homeland Security Studies

by

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ABSTRACT

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Human Trafficking (HT) is the modern day form of slavery. In 2000, the United States joined the worldwide efforts and made the commitment to combat HT with passing of the Trafficking Victims Protection Act (TVPA). In 2003, they adopted the world approach to combating HT through the 3P paradigm of prevention, protection, and prosecution. Since being established, the TVPA has undergone revisions to expand the authority, punishments, and scope for law enforcement to enforce the laws of the TVPA. This thesis looks at law enforcement efforts over time to determine how effective they are in applying the protections and enforcing the laws of the TVPA.

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ACRONYMS

CBP	Customs and Border Protection
CRS	Congressional Research Service
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
DOS	Department of State
FBI	Federal Bureau of Investigations
HT	Human Trafficking
ICE	Immigration and Customs Enforcement
NHTRC	National Human Trafficking Resource Center
RICO	Racketeering Influence and Corrupt Organization
SIA	Special Interest Alien
TCO	Transnational Criminal Organizations
TO	Terrorist Organizations
TVPA	Trafficking Victims Protection Act
TVPA	Trafficking Victims Protection Act Reauthorization Act
UN	United Nations

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CHAPTER 1

INTRODUCTION

If as the friends of colonization hope, the present and coming generations of our countrymen shall by any means, succeed in freeing our land from the dangerous presence of slavery; and, at the same time, in restoring a captive people to their long-lost father-land, with bright prospects for the future; and this too, so gradually, that neither races nor individuals shall have suffered by the change, it will indeed be a glorious consummation.¹

— Abraham Lincoln

The topic of this research thesis is human trafficking (HT). The purpose is to review current literature and statistics to determine the effectiveness of the current law enforcement strategies and efforts. For the reader to have a better understanding of the issues of HT and the efforts to combat it, a general understanding of the contributing factors and history behind the United States strategy to combat the problem is important. The following is a brief overview on the HT.

HT, also known as modern day slavery, has been an issue since Congress passed the 13th Amendment on 31 January 1865 abolishing slavery in the United States. The 13th Amendment provided that, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”² The 13th Amendment abolished slavery, but the demand for cheap labor, services, and goods continued. The abolishment of slavery, combined with the passing of the Page Act in 1875 and Immigration Act of 1891, in fact increased the profitability of HT. The continued migration of immigrants from all over world to the United State provided transnational criminal organizations (TCO) and human traffickers an endless supply of resources to

exploit for profit. Realizing the high demand and high profits, criminal organizations began employing tactics of coercion, deception, and force to recruit victims.

To fight the demand and the criminal organizations, in 2000 the United States took another significant step towards the fight against HT with the passing of the Victims of Trafficking and Violence Protection Act. The Act demonstrated commitment as did signing and ratifying the United Nations (UN) protocol to prevent, suppress, and punish trafficking in persons, especially those involving women and children. The UN protocol, also referred to as the Trafficking Protocol, UN TIP Protocol, or Palermo Protocol is a convention against transnational organized crime. It is one of the three Palermo protocols, the others being the Protocol against the Smuggling of Migrants by Land, Sea, and Air and the Protocol against the Illicit Manufacturing and Trafficking in Firearms.³

The last significant piece of legislation is the Trafficking Victims Protection Act (TVPA) of 2003. Falling in line with the world approach to combating HT, the United States adopted the “3P” paradigm of “Prosecuting” traffickers, “Protecting” victims, and “Preventing” the crime through the passage and implementation of national anti-trafficking laws.⁴ Refinement to the TVPA continued with reauthorizations in 2005, 2008 and 2013. Each improved and expanded efforts to thwart HT. Prosecution, Protection, and Prevention provide law enforcement with the strategy and guidance to address the problem. The 3P paradigm will be the framework of this research to measure how effective law enforcement has applied tools and resources provided by the TVPA.

The issues of HT are complex and reach beyond the U.S. borders. When reviewing research on the topic, HT is associated with many significant national security challenges to include, smuggling, homeland security, labor enforcement, humanitarian

relief, and transnational criminal activity. For law enforcement, these legislative changes meant shifting to a broader scope of enforcement to better identify this crime. This meant taking a proactive approach through building partnerships, public outreach, and gaining the trust of victims to come forward and assist prosecution and punishment offenders. National emphasis also meant implementing a combined effort between all levels of law enforcement, which includes local, state, federal, and binational governmental support, as well as non-governmental organizations. The partnerships among Department of Homeland Security (DHS), Department of State (DOS), Federal Bureau of Investigation (FBI), Health and Human Services (HHS), Department of Justice (DOJ), state, and local law enforcement lead the way. The United States reinforced its commitment by providing funding to enhance efforts of the TVPA strategy of prevention, protection, and prosecution. In 2015, Congress approved 44 million dollars for the DOJ to administer and distribute in the areas of enforcement, training, victim services, legal services, and research.⁵ Annual increases in resources confirm this issue remains a focus area for law enforcement.

There are three categories of human trafficking identified by the TVPA. The first is sex trafficking; defined as, the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen years of age. The next category is labor trafficking which is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.⁶ The third category of child

soldier recruitment does not affect the United States. The focus for all law enforcement activities is on the first two categories.

The inherent problem is HT is a market driven criminal industry based on the principles of supply and demand. For example, drugs and arms trafficking follow the same principles. Transnational criminal organizations and human traffickers exploit victims to supply the demand for cheap labor, services and for commercial sex. TCO also exploit the market incentive of high profit with the low risk of the criminal act. The market is high profit due to low labor costs. There is an endless and renewable supply of immigrants wanting to travel to the United States for social, security, family, and economic reasons. The victims' illegal status reinforces the debt and control the TCOs maintain over them. HT is low risk for the same reasons. There is no operational cost, so there is no risk to loss of product. If apprehended by law enforcement, there are more immigrants waiting to be smuggled. Initial implantation of the TVPA was challenging for law enforcement. As with any new change, the adjustment of law enforcement generated inherent factors that reinforced TCO's low risk criminal operations. For example, factors such as lack of training, low community awareness, ineffective or unused laws, lack of enforcement and investigations, scarce resources for victim recovery services, and social blaming of victims. Factors outside the United States exacerbate the problem, for example, the southern border is a gateway for illegal immigrants from Mexico and Central and South America. The social, economic, and internal security conditions in these regions have worsened or improved very little, which make it very difficult and unsafe for families and children. The victims flee their homes with hope of a better life. TCOs exploit this vulnerability through coercion, force, or deception. The price for

immigration is the never-ending debt that enslaves them to the criminal organizations. These outside factors, combined with moderate enforcement efforts (border, criminal, investigative), minimal resources, and stressed legal system, make the law enforcement task increasingly difficult.

Human Trafficking requires a whole of government approach. The United States implemented an Enhanced Collaborative Model (ECM) to combat this issue. The model, made possible by legislation, 22 U.S. Code § 7105 (Protection and assistance for victims of trafficking), is overseen by the Department of Justice (DOJ) and provides grants to inter-agency and multi-national tasked forces to combat HT in the United States and abroad.⁷ In addition to the ECM, the TVPA also provides funding and assistance to foreign governments and organizations. An example this type of support on a larger scale is the Merida Initiative. The United States establishes initiatives with other countries affected by HT and security threats to improve cooperation, share lessons learned and increase law enforcement capacity. In December 2007, the United States and Mexico agreed to collaborate on addressing their shared security problem. This binational effort provided funding, advisory support, and intelligence support to increase regional security.⁸ This type of support to foreign governments addresses the problem at its origin in an attempt to prevent the crime before it reaches the United States.

The impacts of human trafficking are vast. Since 2003, the TVPA improved law enforcements response. The ECM has been an important additional tool for the TVPA to incorporate a whole of government approach. This research evaluates the U.S. law enforcement agencies strategies to determine how effective their efforts are in combating human trafficking.

Research Questions

Primary question: Has the U.S. law enforcement strategy in applying the TVPA to combat human trafficking improved over time? This study takes a holistic view of law enforcement application of the TVPA to prevent HT, provide protections to victims, and prosecute offenders. Previous studies, covered in chapter 2, have evaluated each of these areas of the TVPA individually. Individual evaluation is useful, but a holistic approach provides a complete picture of the response. This study will provide a broader picture of law enforcement efforts and the effects they had over time.

Using this holistic approach, this thesis aims to stimulate high-level discussion and assist the fight against HT. As mentioned before, previous studies have evaluated the 3P's individually. It is important to evaluate how law enforcement has addressed shortfalls in order to improve the response. This research aims to provide that insight.

Definition of Terms

Enhanced Collaborative Model (Anti Trafficking Taskforce) to Combat Human Trafficking. The Enhanced Collaborative Model to Combat Human Trafficking Program supported “the development and enhancement of multidisciplinary human trafficking task forces to implement collaborative approaches to combat all forms of human trafficking, sex trafficking and labor trafficking of foreign nationals and U.S. citizens (of all sexes and ages) within the United States.”⁹

Human Smuggling. “Human smuggling is the facilitation, transportation, attempted transportation, or illegal entry of a person(s) across an international border, in violation of one or more countries laws, either clandestinely or through deception, such as the use of fraudulent documents. Often, human smuggling is conducted in order to

obtain a financial or other material benefit for the smuggler, although financial gain or material benefit are not necessarily elements of the crime. Human smuggling is generally with the consent of the person(s) being smuggled, who often pay large sums of money.”¹⁰

Human Trafficking. “Human trafficking is a modern-day form of slavery involving the illegal trade of people for exploitation or commercial gain.”¹¹

Palermo Protocol. A United Nations-sponsored agreement signed in Palermo, Italy that declared, “effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights.”¹²

Transnational Criminal Organization (TCO). “Refers to those self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/ or violence, or while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms.”¹³

TVPA and TVPRA. “The Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), the Trafficking Victims Protection Reauthorization Act of 2003 (H.R. 2620), the Trafficking Victims Protection Reauthorization Act of 2005 (H.R. 972), and the Trafficking Victims Protection Reauthorization Act of 2008 (H.R. 7311) provide the tools to combat trafficking in persons both worldwide and domestically. The Acts authorized the establishment of G/TIP and the President’s Interagency Task Force to

Monitor and Combat Trafficking in Persons to assist in the coordination of anti-trafficking efforts.”¹⁴

Assumptions

There are no assumptions associated with the research method used for this study.

Limitations

The majority of the resources are governmental documents, which rely on information provided by law enforcement agencies. Therefore, the information and statistics used by these reports and studies only reflect what is being reported to law enforcement and what law enforcement organizations then further report. It does not account for or represent all cases that occur in the United States.

The specific data used for this research is also subject to some limitations. The efforts put forth by law enforcement and reviewed for this study must consider the perspectives of the stakeholders involved in that reporting. Political guidance from one year to the next and by different demographics can influence the amount of reporting as well as the perspective presented. In addition, any personal bias of the reporting officer can add a slant to reporting that may be a limitation. Since success or failure of programs could result in additional funds, or the withholding of funds, financial motivations in the funding of programs can influence reporting. These potential biases in reporting are all limitations of this study.

Scope and Delimitations

This research thesis will focus on the United States law enforcement strategy and efforts to combat HT from 2003 to 2015. The scope of the research will be limited to law

enforcement application of the TVPA strategy of the prevention, protection, and prosecution. Information and data used for this study is limited to local, state, and federal law enforcement agencies.

Significance of Study

With the amount of funding and resources the United States invests in its strategies, it is important to determine if these strategies are effective and having the desired impact. The results and findings can help to identify positive and negative aspects of the strategies and potentially recommend allocation of resources to address specific gaps. The research can also determine if there are second and third order effects that present previously unidentified problems or potential new solutions. This research thesis adds to the body of knowledge by providing a holistic perspective to the human trafficking problems faced by the United States.

Summary and Conclusions

Chapter 1 provides the background for this research study. The research will maintain focus on the enforcement strategy. Key terms were identified and definitions provided for clarity and understanding. The limitations provided possible biases concerning resources and time. The scope and delimitations of what is included in the study for analysis were stated.

Chapter 2 reviews the current body of knowledge to inform the reader of the subject, but especially to assess where there are gaps in perspectives. Sources reviewed include published governmental strategies, reports, and studies. To eliminate or reduce bias, other scholarly and foreign reports, and studies are included. Chapter 3 summarizes

the research methodology, which will focus on compiling the various perspectives of the current literature to complete a holistic review toward gaining new understanding of the effectiveness of current U.S. strategies. Chapter 4 contains the analysis of the data, which will answer the research question. Finally, chapter 5 summarizes the analysis and provides recommendations toward improving law enforcements response to enforcing and applying the laws of the TVPA.

¹ Abraham Lincoln, “Selected Quotations on Slavery by Abraham Lincoln,” Abraham Lincoln Online, 6 July 1852, accessed 6 May 2016, <http://www.abrahamlincolnonline.org/lincoln/speeches/slavery.htm>.

² U.S. Constitution, amend. 13.

³ United Nations Office on Drugs and Crime (UNODC), “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” 15 November 2000, accessed 6 May 2016, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en.

⁴ U.S. Department of State, “2015 Trafficking in Persons Report,” July 2015, accessed 31 January 2016, <http://www.state.gov/j/tip/rls/tiprpt/>.

⁵ U.S. Department of Justice, “Attorney General Lynch Announces \$44 Million in Grant Funding to Combat Human Trafficking and Support Survivors,” 24 September 2015, accessed 6 May 2016, <https://www.justice.gov/opa/pr/attorney-general-lynch-announces-44-million-grant-funding-combat-human-trafficking-and>.

⁶ Trafficking Victims Protection Reauthorization Act of 2008 (H.R. 7311).

⁷ U.S. Department of Justice, OMB No. 1121-0329, “FY 2015 Enhanced Collaborative Model to Combat Human Trafficking Competitive Solicitation,” 11 March 2015, accessed 6 May 2016, http://ojp.gov/ovc/grants/pdf/FY15_ECM_Competitive_Solicitation-508.pdf.

⁸ U.S. Department of State, “The Merida Initiative – an Overview,” accessed 17 November 2015, <http://mexico.usembassy.gov/eng/ataglance/merida-initiative.html>.

⁹ U.S. Department of Justice, OMB No. 1121-0329, “Enhanced Collaborative Model to Combat Human Trafficking FY 2013 Competitive Grant Announcement,” 28 February 2013, accessed 16 May 2016, <https://www.bja.gov/Funding/13HumanTraffickingSol.pdf>.

¹⁰ U.S. Department of State, “Fact Sheet: Distinctions between Human Smuggling and Human Trafficking 2006,” *Diplomacy in Action*, 1 January 2006, accessed 18 November 2015, <http://www.state.gov/m/ds/hstcenter/90434.htm>.

¹¹ U.S. Department of Homeland Security, “Blue Campaign, One Voice. One Mission. End Human Trafficking,” 14 September 2015, accessed 18 November 2015, <https://www.dhs.gov/blue-campaign/what-human-trafficking>.

¹² United Nations Human Rights, Office of the High Commissioner, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” 15 November 2000, accessed 6 May 2016, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

¹³ National Security Council, “Strategy to Combat Transnational Organized Crime: Definition,” accessed 18 November 2015, <https://www.whitehouse.gov/administration/eop/nsc/transnational-crime/definition>.

¹⁴ U.S. Department of State, “U.S. Laws on Trafficking in Persons,” accessed 6 May 2016, <http://www.state.gov/j/tip/laws/>.

CHAPTER 2

LITERATURE REVIEW

When a little boy is kidnapped, turned into a child soldier, forced to kill or be killed—that's slavery. When a little girl is sold by her impoverished family—girls my daughters' age—runs away from home, or is lured by the false promises of a better life, and then imprisoned in a brothel and tortured if she resists—that's slavery. It is barbaric, and it is evil, and it has no place in a civilized world.¹

— President Barack Obama

The purpose of this research is to determine Law Enforcement effectiveness in applying the Trafficking Victims Protection Act (TVPA) to combat Human Trafficking. Chapter 1 introduced the topic and discussed why the research question is relevant. This chapter will review the current literature pertaining to HT. The literature includes scholarly research papers, journals, research institute studies, government publications, and international organization publications. Organization is in the themes of the TVPA, which are prevention, protection, and prosecution. Each section provides a picture of what other researchers have studied in the respective section of TVPA strategy. Each section concludes with how this information guided the researcher to formulate criteria for determining effectiveness for law enforcement efforts and application of the TVPA.

Prevention

Prevention, which falls in line with the Palermo Protocol and TVPA, has been one of the foundations that shaped U.S. law enforcement efforts. Law enforcement uses prevention in the forms of public outreach to educate people on the dangers and consequences of human trafficking. Other forms of prevention include deterrence, legislation, and training to prevent and restrict actions that are susceptible to HT.

Examples of actions susceptible to HT are unfair and illegal labor practices and prostitution. One of the issues commonly found in the literature is the ability to address the push and pull factors of HT. Jonathan Todres, in the *Michigan Journal of International Law*, stated that initial legislation and guidance to address HT was heavily law enforcement focused to combat TCOs.² There was very little focus on prevention, which is characteristic of the push and pulls factors, which Todres referred to as “supply (push)” and “demand (pulls).”³ There is very little that law enforcement can do to address the push factors, which are inherent in the countries of origin. The pull factors are where law enforcement can affect the benefactors of HT. They can target and combat them through deterrence and enforcement. The following literature provides insight on the push and pulls factors.

Literature on prevention identifies that international HT law does not address root causes and systemic issues sufficiently.⁴ The root causes and systematic issues are the push factors found in the countries of origin of the victims. Law enforcement in the United States cannot address these factors. The people most affected by the push factors are the world populations that are vulnerable to exploitation. Clare Ribando Seelke, of the Congressional Research Service, states the following are push factors found in the Caribbean and Latin America; poverty, unemployment, membership in an indigenous group, illiteracy, a history of physical or sexual abuse, homelessness, drug use, and gang membership. The State Department added to the demographic by including lesbian, gay, bisexual, and transgender people as vulnerable people to human trafficking.⁵ Another human trait that pushes people towards irregular migration that makes them susceptible to HT is peoples natural will to seek a better life for themselves and family. Victims initially

start out with a desire to migrate and end up exploited in the process. If human beings need jobs and those jobs are unavailable in their domestic markets, they will attempt to access trans-border markets where jobs are available.⁶

To say traffickers that constitute a significant part of the problem is obvious. As with the drug trade, traffickers are feeding a demand driven by consumers, which are the pull factor. The commercial sex industry and the desire for cheap goods and services drive the demand.⁷ A journal article in the *Indiana Journal for Global Legal Studies* by Janie Chuang further expands on the pull factors. Chuang adds that fewer constraints on travel (for example, less restrictions on freedom of movement and cheaper and faster travel opportunities); established migration routes and communities in destination countries plus the active presence of recruiters willing to facilitate jobs or travel; and the promise of higher salaries and standards of living abroad increase pull factors.⁸ Advances in information technology, global media, and internet access provide the means to broadcast to even the most isolated communities the promise of better opportunities abroad.⁹

The literature on prevention leads the researcher to narrow in on the law enforcement efforts that address the pull factors, which are also known as the demand found in the United States. The markets of the sex industry and labor markets drive the demand. In a country, where prostitution is legal in some states impacting demand is a difficult task to accomplish. The criteria derived from this theme found in the TVPA focus on the enforcement operations and punishment, such as sentencing and restitution as a means of deterrence. The following sections cover protection, prosecution, and reporting.

Protection

The TVPA has undergone several changes since implemented in 28 October 2000. Because the TVPA was reactionary to address the severe problem of HT, the United States took a strong enforcement position that was more in line with addressing illegal immigration and the inherent crimes associated with the TVPA. For example, a police officer would arrest a victim forced into prostitution by a trafficker or pimp instead of recognizing the need of protection under the TVPA. The second and third order effects of the strong enforcement approach unintentionally helped traffickers assert control over victims. The victim's options were to comply with the demands of the criminal organization or risk arrest and deportation. These initial reactions lead to the identification and implementation of a victim centered approach or otherwise known as the victim protection model. Jennifer Chacon, in the article "Tensions and trade-offs: Protecting Trafficking Victims in the Era of Immigration Enforcement," for the University of Pennsylvania Law Review provides good insight of the TVPA challenges for law enforcement. One of the challenges is the fear of legal recourse of protracted immigration detention, criminal prosecution, and removal. This fear reinforces traffickers control over victims and discourages reporting of crimes and labor violations.¹⁰ These are second order effects of the strong enforcement reaction to implementation of the TVPA. Prosecutions feel the third order effects due to witness failure to provide testimony because of fear of retaliation. The prosecution section will cover more in detail the challenges and review of the literature concerning law enforcement and prosecutions.

As stated above, the initial efforts to combat HT were unintentionally opposing the humanitarian effort to protect victims, which the TVPA intended to do. The challenge

for law enforcement is the competing goals of protecting victims and immigration enforcement. The factor that separates the two goals is law enforcement's ability to identify voluntary migrants who willingly participate in smuggling schemes and unwilling trafficking victims.¹¹ The difference between the two determines how the victim is processed and or separated from those involved in smuggling. Identifying the difference in the victim is the challenge for law enforcement. The reason for this is that smuggling is a means for HT victims to enter the United States through either false representation, false intentions, or illegal entry at points other than an established port of entry. Influence by public officials, politics, and policies further compound the problem by applying a rigid focus on immigration enforcement.¹² Another article, "Ten Years After the Palermo Protocol: Where are Protections for Human Trafficking?" by Kelly Hyland Heinrich addresses the same issues. Heinrich states that, "in 2010, the most common anti-trafficking strategy remains enforcement-only, relegating victim protection to a secondary role rather than a complementary or necessary role."¹³

To address the gap between immigration enforcement and protection of victims, the amendments and reauthorizations of 2000, 2003, 2005, 2008, and 2013 further expand on clarity of definitions, penalties, fines, funding, and protections. Along with the amendments, the TVPA provided law enforcement provisions for a victim-centered approach to HT. This effort addresses some of the shortfalls of the initial TVPA. The main tools for law enforcement in the victim-centered approach is the use of certification (adults) and eligibility (children) letters issued by the Health and Human Services (HHS) which grants federally funded benefits and services, such as cash assistance, medical care, supplemental nutrition, assistance program benefits and housing.¹⁴ To be eligible

for a letter from HHS the victim must be willing to assist in every reasonable way in the investigation and prosecution of severe forms of human trafficking or who is unable to cooperate due to physical or psychological trauma. The victim must also have made a bona fide application for a visa under section 101(a)(15)(T) of the INA that has not been denied or is a person whose continued presence in the United States the Attorney General and the Secretary of Homeland Security are ensuring in order to facilitate prosecutions.¹⁵ The other tools used are T and U visas. Both visas provide protections for a noncitizen victim to obtain temporary lawful status. The temporary status of the T visa can convert into lawful permanent residency. To be eligible for adjustment of status, the noncitizen must prove the following:

1. Are or were a victim of trafficking, as defined by law
2. Are in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking.
3. Comply with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking (or you are under the age of eighteen, or you are unable to cooperate due to physical or psychological trauma)
4. Demonstrate that you would suffer extreme hardship involving unusual and severe harm if you were removed from the United States.¹⁶

The U visa is an alternate solution for individuals who are victims of certain qualified crimes and have suffered mental or physical abuse. There are twenty-nine different criminal acts covered under the U visa. The qualified criminal acts include; abduction; hostage; sexual assault; abusive sexual contact; incest; sexual exploitation;

blackmail; involuntary servitude; slave trade; domestic violence; kidnapping; stalking; extortion; manslaughter; torture; false imprisonment; murder; trafficking; female genital mutilation; obstruction of justice; witness tampering; felonious assault; peonage; unlawful criminal restraint; fraud in foreign labor contracting; perjury; prostitution; rape; and other related crimes. Also covered under the U visa are similar activities where the elements of the crime are substantially similar and includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes. Similar to the T visa, it also requires the cooperation with law enforcement or government officials in the investigation or prosecution of criminal activity.¹⁷ Both T and U visas provide temporary and permanent status for immediate family members as well.

In conjunction with the prosecution, TVPA also provides the HT victims with protection in the form of mandatory restitution and civil action. Under this provision of restitution, courts must order the defendant to pay the victim the full amount of the victim's losses, which may include medical and psychological assistance, attorney's fees, and other losses suffered as a proximate cause of the offense.¹⁸ The TVPA also created a civil cause of action that allows victims to file suit for actual and punitive damages, attorney's fees, and other litigation costs if they have been victims of forced labor, peonage, slavery, involuntary servitude, or sex trafficking.¹⁹

The use of different immigrant visas to encourage cooperation with authorities provided some different perspectives within the literature available. Specifically, there are contrary views of the use of T and U visa as an incentive for legal status by cooperating with authorities in investigations and prosecutions. A study by Charles Song and Suzy Lee examine whether it should be mandatory for victims of severe forms of

trafficking to cooperate with law enforcement agencies in order to be eligible to receive critical victim protections.²⁰ Song and Lee see this as an unnecessary requirement for eligibility and suggest that cooperation should be voluntary. They further argue that prosecutors can through federal courts and grand juries, compel witnesses to testify in these proceedings by their subpoena power, enforced through the threat of civil and criminal contempt charges.²¹ Finally, they point out that federal courts could take preemptive action by designating these victims as material witnesses, thereby requiring potentially uncooperative witnesses to post bond, report regularly to law enforcement officers, or even remain in detention until they obtain the relevant testimony.²²

Pressure to comply or align efforts with the victim-centered approach has forced congress to adjust the TVPA. The reauthorization in 2005 relaxed the cooperation requirement by allowing the Secretary of Homeland Security, in consultation with the Attorney General, to find a request from law enforcement officials “unreasonable” if a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance. The requirement also excludes people under the age of eighteen.²³ In the end, it is still incumbent of the victim to prove his or her eligibility for protection under the TVPA or be subject to detention, prosecution, criminal punishment, and removal as a smuggled alien.

Due to the blurred distinction between smuggling and HT, law enforcement has faced a big challenge to provide the protections needed by victims. The TVPA does provide protection in the form of temporary and permanent legal status by means of the T and U visas. It also provides certification and eligibility letters from HHS making victims eligible for federal benefits while their visa is processed. Law enforcements shortfall is

the victim identification due to lack of training and strong political motivations for immigration enforcement. These issues and factors lead the researcher to similar criteria as in prevention. The addition to the criteria is victim identification and the use of the T and U visa, which will be included in the study. Evaluation of these criteria over time will provide insight to the effectiveness of law enforcement application of the TVPA strategy.

Prosecution

Law enforcement application of the TVPA, as mentioned in the previous section of this chapter, has been a strong enforcement approach since the creation and implementation of the TVPA. A review of the literature pertaining to prosecution has identified a second model, which is the prosecution model. The implementation of this model initially focused on crimes in general and became the jail-the-offender variation of the prosecution model. The initial law enforcement efforts were more in line with the jail the offender model due to lack of training, educating, and preparation to enforce the laws of the TVPA. This resulted in victims' arrest and prosecution for crimes resulting from HT such as, prostitution and illegal immigration status. The model progressively changed from a victim focus to an end user and facilitator focus. The following review of literature outlines the challenges and shift to the current prosecution efforts of law enforcement. This information provided the background to develop evaluation criteria for the prosecution efforts and application of the TVPA. This also assisted the researcher in identifying gaps in the research.

The TVPA of 2000 and subsequent reauthorizations in 2003 and 2005 provided the premise for law enforcement ability to prosecute HT offenders. These federal laws criminalized HT and prohibited it by state, federal and international law.²⁴ The TVPA

strengthened the ability of federal agencies to prosecute and punish traffickers. The TVPA increased mandatory minimum sentences for “peonage,” “enticement into slavery,” and “sale into involuntary servitude” from ten to twenty years in prison.²⁵ The TVPA also provided for the criminal sanction of a life sentence for trafficking cases in which kidnapping, sexual abuse, or killing (or any attempt thereof) occurs.²⁶ Because those three criminal provisions alone were insufficient to prosecute human traffickers effectively, Congress criminalized four additional offenses: “forced labor,” “trafficking with respect to peonage, slavery, involuntary servitude, or forced labor,” “sex trafficking of children or by force, fraud, or coercion,” and “unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.”²⁷ In 2003, the TVPA expanded its scope by including HT under the federal Racketeering Influence and Corrupt Organization statute to enhance prosecution of HT related crimes.²⁸ It also extended its influence to international law enforcement academies to train foreign law enforcement authorities, prosecutors, and members of the judiciary about HT.²⁹

Although the TVPA established the legal framework for law enforcement, application of the TVPA has encountered obstacles. The major obstacle is fostering and instilling a victim-centered approach in identifying victims, witness, building cases, and prosecuting cases. Bridging the gap between prosecutions and the victim-centered approach is the area that media and non-governmental humanitarian agencies scrutinize law enforcement. The political pressure and competing goals in security compound the problem, which make it difficult for law enforcement to meet both goals. Below are the issues that have affected law enforcement’s ability to enforce the laws of the TVPA.

An issue that is common throughout the reviewed literature of HT is the problem of victim identification. This affects both models of prosecution and victim-centered approach. It has stronger impacts on the prosecution model because of the focus on enforcement. The crimes associated HT distracts from the victim-centered approach factors of forced acts of labor and prostitution. Even with legislation that provides the framework for prosecuting human traffickers, and providing protections, victims still run the risk of arrest for prostitution, possession of fraudulent documents, or working without authorization.³⁰ This is why humanitarian NGOs negatively labeled this approach the jail the offender approach to prosecutions. This negative view of law enforcement using the jail the offender versus the victim-centered approach hinders prosecutions. This perspective and application of the TVPA is largely due to lack of clear mission, objectives, and end state for law enforcements role in combating HT.

The reason for this is the lack of guidance, training, and education on behalf of law enforcement. In 2009, nine years after the implementation of the TVPA, there is still a gap in education and awareness of HT and the TVPA. In 2009, a study conducted by George S. Yacoubian, Jr., J.D., Ph.D., Heather J. Clawson, Ph.D., & Nicole Dutch for the University of California found that 57 percent of law enforcement surveyed and interviewed considered themselves knowledgeable to very knowledgeable about HT issues. When asked about their familiarity with the TVPA, 44 percent indicated they were familiar to very familiar with the legislation.³¹ To address this short fall, law enforcement officials use an enhanced collaborative model to establish anti-trafficking task forces. These task forces receive funding from the DOJ with the sole purpose to battling the HT issue. The study by Yacoubian, Clawson, and Dutch found that sixty-three percent of

respondents to their study indicated that they were working with a task force. This addresses a portion of the gap by establishing a task force that devotes one hundred percent of their time to HT. It does not place the resources at the patrol officer level on the street that is more likely to encounter these victims.

Another obstacle that law enforcement encounters is the use of HT to direct attention to alternate political agendas. The two most common mentioned in reviewed literature is border security and prostitution. Both of these issues are independent issues to the law enforcement community, but the political influence impacts how the TVPA or lack thereof is applied. If prostitution is problematic issue in a city, political pressure will force an uneducated and trained police officer to arrest a potential victim under the pretext of prostitution and not HT. A border patrol agent can be susceptible to the same political pressures on the southern border when encountering an illegal immigrant being smuggled. An example of this is politicians' attempt to link smuggling to HT in order to increase border security.³² Both prostitution and trafficking issues are independent of HT, but both are also nonetheless related.

An obstacle that is difficult to overcome due to the party engaged is the U.S. soldier, diplomat, official, and or contractor that is knowingly obtaining the services of forced labor and or prostitution. This places negative attention on the United States that hinders international relations both in the United States and abroad. Unfortunately, the crimes are committed outside the United States. These cases are handled with limited media exposure to not affect diplomatic efforts. This is an area that the United States has made efforts to correct with amendments to the TVPA and seen success in prosecuting, as stated in the TIP report.

The final issue is a product of the successful implementation of the victim-centered approach by law enforcement. This scenario shows that law enforcement has identified a victim, put together a case against a defendant, and is using the legal framework to punish and prosecute the offenders. What hinders the prosecution is the concern for victim's re-exposure to mental hardship of court proceedings, especially in children. The TVPA sets the criteria for protection and benefits for victims. HHS and DHS can overturn the criteria and stipulation of testimony and cooperation with prosecutions by finding the DOJ request unreasonable. When a prosecution is solely relying on victim testimony and has not fostered a good relationship with the victim to reinsure protection, prosecutions run the risk of failing.³³

The literature reviewed in this section provided a clear picture of how law enforcement applies the TVPA to prosecutions. The focus was to determine the short falls and gaps to establish a base line for measuring effectiveness. This data is important to frame the problem and determine measures of effectiveness. The following section provides a better understanding of the reporting framework and validity, which the researcher will use for analysis.

Reporting

There are many governmental, nongovernmental, and international organizations that track and monitor crimes and statistics related to HT. The governmental agencies used for this research are the Department of State (DOS) through Trafficking in Persons Report (TIP), Department of Justice (DOJ) through the Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, and Federal Bureau of Investigation through the Uniform Crime

Reporting (UCR) Program's Human Trafficking data collection. The Department of Homeland Security (DHS) also provides statistics and data for analysis concerning illegal immigration and crimes with nexus to HT. The Polaris Project is a nongovernmental agency that also monitors HT statistics. The United Nations Office on Drugs and Crime (UNODC) is an international organization that monitors HT on a global scale through the Global Report on Trafficking in Persons. All the organizations follow a mandate to track, monitor, and report statistics on HT through the TVPA and or Palermo Protocol. These organizations provide the material and statistics to measure effectiveness of law enforcement. Below is a brief review of each reporting source.

The TVPA, in 2003, mandated the DOJ to submit an annual report from the Attorney General (AG) to the U.S. Congress regarding efforts to combat trafficking:

1. The number of persons in the United States who received benefits or other services under the TVPA in connection with programs or activities funded or administered by the Department of Health and Human Services (HHS), the Department of Labor (DOL), the Board of Directors of the Legal Services Corporation (LSC), and other federal agencies during the previous fiscal year;
2. The number of persons who had been granted Continued Presence in the United States under the TVPA during the previous fiscal year;
3. The number of persons who applied for, had been granted, or had been denied T-nonimmigrant status or otherwise provided status under the Immigration and Nationality Act (INA) during the previous fiscal year;

4. The number of persons who were charged or convicted under 18 U.S.C. §§ 1581, 1583, 1584, 1589, 1590, 1591, 1592, or 1594, during the previous fiscal year, and the sentences imposed against these persons;
5. The amount, recipient, and purpose of each grant issued by any federal agency to carry out the purposes of sections 106 and 107 of the TVPA, or Section 134 of the Foreign Assistance Act of 1961 during the previous fiscal year;
6. The nature of training conducted under TVPA section 107(c)(4) during the previous fiscal year; and the activities undertaken by the SPOG to carry out its responsibilities under section 105(f) of the TVPRA 2003 during the previous fiscal year.

The DOJ report summarizes all the efforts of law enforcement and aid to non-governmental and international organizations. The analysis of the information is limited. The information only goes back to 2010 for some data and some only show the current year stats. For example, the report does not place much emphasis on punishments given to convicted defendants. This research intends to broaden the picture going back to when the United States adopted the 3P approach in 2003 and fill in some those reporting gaps.

The TVPA mandates the DOS TIP Report, which provides an overview of prosecution, prevention, and protection of current year statistics and efforts. It does not provide an analysis over time of each source of data. It is a tool for categorizing countries in tiers, which qualify them for funding. The TIP report is the U.S. Government's principal diplomatic tool to engage foreign governments on human trafficking and a broad assessment of governmental anti-trafficking efforts. DHS provides data and information for analysis published by its subordinate agencies, Immigration and Customs

Enforcement (ICE), U.S. Citizenship and Immigration Service (USCIS), and Customs and Border Protection (CBP). The information and data is useful for analysis but it pertains to immigration, which is an independent violation on its own. This research uses this data to measure deterrence, as the majority of victims are present in the United States illegally. They also form the most vulnerable demographic susceptible to HT.

The FBI's UCR Program began collecting data in January 2013. It collects offense and arrest data regarding human trafficking as authorized by the Trafficking Victims Protection Reauthorization Act of 2008. The act requires the FBI to collect human trafficking offense data and to make distinctions between prostitution, assisting or promoting prostitution, and purchasing prostitution. The data collected includes offenses and arrests recorded by state and local law enforcement agencies (LEAs) that currently have the ability to report the data to the national UCR Program. The two offense are in line with the definitions of the TVPA, which are:

Human Trafficking/Commercial Sex Acts: Inducing a person by force, fraud, or coercion to participate in commercial sex acts, or in which the person induced to perform such act(s) has not attained eighteen years of age.

Human Trafficking/Involuntary Servitude: The obtaining of a person(s) through recruitment, harboring, transportation, or provision, and subjecting such persons by force, fraud, or coercion into involuntary servitude, peonage, debt bondage, or slavery (not to include commercial

The UCR reporting is new to tracking HT crimes, but does provide insight to data collected by state and local law enforcement. UCR data is not captured in any report as of

the publication of this thesis. This thesis will use what data is available to show what future analysis will be possible at the state and local level.

The Polaris Project is a TVPA funded nongovernmental organization that monitors HT efforts. The biggest contribution to law enforcement is a National Human Trafficking Resource Center Hotline (NHTRCH), (888) 373-7888. The NHTRCH is a 24-hour number for reporting any acts of HT and provides information for victim services. It monitors HT information and information relating to nationality, location, category, gender, and age across the United States and refers information to law enforcement for follow-up and action.

In 2010, the General Assembly, through the UN Global Plan of Action to Combat Trafficking in Person, mandated the UNODC to produce the Global Report on Trafficking in Persons report. This report places HT statistics into a global and regional perspective. The report is a yearly document that provides similar statistics and reporting as the TIP report but on global scale.

All these organizations and the reports they generate provide the data for analysis for the researcher. Each document provides the results of the efforts by the United States and law enforcement for analysis to determine effectiveness. These reports provide a broad range of information that includes, U.S. government, U.S. nongovernmental, and international organizations. This review of literature provides the different perspectives for analysis, which are essential to greater understanding of issues related to HT. The following chapter will discuss the methodology used to research and analyze the effectiveness of law enforcement application of the TVPA.

¹ Barack Obama, “Remarks by the President to the Clinton Global Initiative,” The White House, 25 September 2012, accessed 5 May 2016, <https://www.whitehouse.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative>.

² Jonathan Todres, “Widening Our Lens: Incorporating Essential Perspectives in the Fight against Human Trafficking,” *Michigan Journal of International Law* 33, no. 1 (2011): 56-63.

³ *Ibid.*, 56.

⁴ *Ibid.*

⁵ Clare Ribando Seelke, *Trafficking in Persons in Latin America the Caribbean* (Washington, DC: Congressional Research Service, 2015), 4-5.

⁶ Todres, 58.

⁷ *Ibid.*, 61.

⁸ Christin Boswell and Jeff Crisp, “Poverty, International Migration and Asylum” (Policy Brief No. 8, United Nations University, World Institute for Development Economics Research, 2004), 6-10, quoted in Janie Chuang, “Beyond a Snapshot: Preventing Human Trafficking in the Global Economy,” *Indiana Journal of Global Legal Studies* 13, no. 1 (2006): 145-46.

⁹ *Ibid.*

¹⁰ Jennifer Chacon, “Tensions and Trade-Offs: Protecting Trafficking Victims the Era of Immigration Enforcement,” *University of Pennsylvania Law Review* 158 (2010): 1612.

¹¹ *Ibid.*, 1615.

¹² *Ibid.*

¹³ Kelly Hyland Heinrich, “Ten Years after the Palermo Protocol: Where Are the Protections for Human Trafficking?” *Human Rights Brief* 18, no. 1 (2010): 3.

¹⁴ U.S. Department of Justice, “Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2014,” 2014, accessed 20 April 2016, <https://www.justice.gov/ag/file/799436/download>.

¹⁵ Protection and assistance for victims of trafficking, Public Law: codified as U.S. Code 22 (2008), § 7105.

¹⁶ U.S. Citizenship and Immigration Service, “Victims of Human Trafficking: T Nonimmigrant Status,” 3 October 2011, accessed 15 February 2016, <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

¹⁷ U.S. Citizenship and Immigration Service, “Victims of Criminal Activity: U Nonimmigrant Status,” 11 December 2016, accessed 15 February 2016, <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>.

¹⁸ Mandatory restitution, Public Law: codified at U.S. Code 18 (2011), § 1593.

¹⁹ Civil remedy, Public Law: codified at U.S. Code 18 (2011), § 1595.

²⁰ Charles Song and Suzy Lee, “Between a Sharp Rock and a Very Hard Place: The Trafficking Victims Protection Act and the Unintended Consequence of the Law Enforcement Cooperation Requirement,” *Intercultural Human Rights Law Review* 1 (4 June 2006): 138.

²¹ *Ibid.*, 152.

²² *Ibid.*

²³ U.S. Citizenship and Immigration Service, “Victims of Human Trafficking.”

²⁴ Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117, Stat. 2875 (2003); Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558 (2005).

²⁵ Trafficking Victims Protection Act of 2000. § 112(a)(1)(A).

²⁶ *Ibid.*, 112(a)(1)(B).

²⁷ *Ibid.*, § 1589-92.

²⁸ Trafficking Victims Protection Reauthorization Act of 2003, § 5.

²⁹ *Ibid.*, § 112A.

³⁰ Dina Francesca Haynes, “Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and to Secure the Prosecution of Traffickers,” *Human Rights Quarterly* 26 (2004): 221-72, accessed 27 March 2016, http://www.press.jhu.edu/journals/human_rights_quarterly/.

³¹ George Yacoubian, J.D., Ph.D., Heather Clawson Ph.D., and Nicole Dutch, “An Examination of Law Enforcement Responses to Human Trafficking in the United

States: A Compliance Assessment of U.S. Obligations under Customary and Conventional International Law,” *UC Davis Journal of International Law and Policy* 15, no. 1 (25 February 2009): 174, accessed 27 March 2016, <http://jilp.law.ucdavis.edu/issues/volume-15-1/Yacoubian.pdf>.

³² Haynes, “Used, Abused, Arrested and Deported,” 230.

³³ Karen Moser, “Prevention, Prosecution, and Protection: A Look at the United States’ Trafficking Victims Protection Act,” *International Journal of Business and Social Science* 3, no. 6 (March 2012): 223, accessed 27 March 2016, http://www.ijbssnet.com/journals/Vol_3_No_6_Special_Issue_March_2012/28.pdf.

CHAPTER 3

RESEARCH METHODOLOGY

How effective is the U.S. law enforcement strategy in applying the TVPA to combat human trafficking? A qualitative analysis is used to answer the question. This approach is appropriate because in a qualitative study, factors can be described to provide context and explanations. A case study methodology will provide additional structure for this complex issue. Data from government sources in the United States and Inter-Governmental Organizations provide broad perspectives to the issue of effectiveness. This research provides a holistic evaluation of law enforcement application of the TVPA and its change over time. The study will also evaluate law enforcement actions against previously identified shortfalls and gaps from previous studies. The analytical structure follows the themes of the TVPA, prevention, protection, and prosecution. The four key shortfalls relevant from previous studies are deterrence, victim identification, prosecutions, and reporting. Assessment of these shortfalls provides a gauge for improvement over time or the continued presence of problematic issues.

A methodology considered, but rejected, was a survey of law enforcement officers who deal with the issue of human trafficking. First, reducing bias in a population at the enforcement level was challenging. Time to structure a survey, collect responses, and assess results was also a concern. Third, an individual survey would not provide the broad perspectives of International, Inter-Governmental, and Non-Governmental Organizations that play a role in combating HT.

There are still challenges to the validity of this study. Most important, the researcher is choosing the data to include in the study. In this situation, there is always a

concern for selection bias. In addition, as a practitioner my experiences could shape the interpretation of the results. Awareness of these potential biases is the first step toward objectivity. A broad collection of data to counter the risk of selection bias, and outside reviewers will reduce biases in data interpretation.

Challenges to Interpretation

Human Trafficking is a complex, dynamic, and endogenous system. The true number of HT victims is unknowable. Therefore, measurement relies on proxy indicators. An increase in the evaluation criteria is an indicator of an effective strategy. For example, an increase in victim identification is an indicator of effective application of the TVPA, greater amount of resources and stronger policies to encourage a victim-centered approach. However, there is a chance that greater numbers of identified victims means a less effective strategy of prevention. It is argued that greater numbers of prosecutions equals better enforcement. This seems straightforward. However, more prosecutions may also indicate that efforts to prevent trafficking may not be effective. Both aspects of enforcement must be considered.

These challenges were considered when capturing, analyzing and making determinations based on the data. Any statistics and conclusions drawn from law enforcement will never represent actual numbers. Crime is inherently clandestine and only captures what is reported. However, this information and analysis does provide a starting point to determine efforts and improvement over time of law enforcement's ability to apply and enforce the laws of the TVPA.

Criteria Deterrence

This study will analyze the punishment of offenders and enforcement operations. Offender punishment includes sentencing and restitution. This will be to measure effectiveness of applying the penalties of the TVPA over time. Enforcement operations will be measured by analyzing DOJ criminal cases to provide perspective on enforcement operations, scope of enforcement and operational reach. Using both statistics and evaluating criminal cases will provide an operations picture of law enforcements proactive deterrence through the punishing of offenders. The Attorney General's *Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons FY 2003 to 2014* will be the primary source for this data. Cases and examples will be from the United States Department Justice, Offices of the United States Attorneys website.

Victim Identification

One of the areas of criticism in the literature review is law enforcements ability to identify victims of HT. This criterion determines if it has improved over time. Victim T and U visas and certifications from Health and Human Services (HHS) will measure this. The National Human Trafficking Resource Center (NHTRC) data is included to determine law enforcement efforts to identify victims based on individual reporting by state. From T and U Visa and NHTRC data, demographic criterion will be included in the study to determine where these victims originate. This indicates if law enforcement efforts and ability to identify victims has improved over time. The Department of State's annual *Trafficking in Persons Report (TIP Report)*, United Nations Office on Drugs and Crime's (UNODC) *Global Report on Trafficking in Persons 2014*, The Attorney

General's *Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons FY 2003 to 2014*, Department of Homeland Security's *Statistics* provided the data for this analysis.

Prosecutions

The investigation to prosecution process is another effectiveness measure. An analysis of investigations, cases opened, charges filed, indictments, prosecutions indicates the effectiveness over time of law enforcement. The reports used to capture this data are UNODC's *Global Report on Trafficking in Persons 2014*, DHS's reported statistics, the Uniform Crime Reporting Program's (UCR) human trafficking data collection program 2014, and the Attorney General's *Annual Report to Congress and Assessment of US Government Activities to Combat Trafficking in Persons* from 2003 - 2014. These reports and statistics provided the data for evaluating the post arrest picture.

Reporting

Reporting also reflects the effectiveness of enforcement. Who are the states, agencies, and organizations that are tracking and reporting human trafficking? Are the aforementioned legally obligated to report statistics of victim relief, arrests, and prosecutions, or is it voluntary? This data will provide a picture the information source, organizations, and agencies reporting data. This demonstrates how widely the data related to HT is being captured. It will also determine gaps in the reporting.

Summary

A qualitative case study methodology is best structured to organize and analyze the complex issue of HT. Alternate methodologies were considered and rejected due to

the limited time available to complete study. Preventative steps by the researcher will mitigate bias and address the challenges to interpretation. This research reviews and analyzes statistics, reporting, enforcement operations, and cases to determine effectiveness over time. The key findings this research will try to identify are the increase or decrease in identified victims, prosecutions, punishment of offenders, and reporting. The data serves as a starting point to inform the reader how effective law enforcement is applying the TVPA to combat HT. This study incorporates international and domestic reporting data to gain better perspective on the topic from the United States and international point of view. Organization of the research data is deterrence, victim identification, prosecutions, and reporting.

CHAPTER 4

ANALYSIS

The purpose of this chapter is to analyze law enforcement application of the TVPA strategy, prevention, protection, and prosecution. The factors identified in chapter 3 will be examined to determine effectiveness over time. The analysis will enable a probabilistic answer to the primary research question. The organization of chapter 4 follows the themes of the TVPA.

The chart below is a holistic picture of the areas evaluated and the areas of improvement from 2003 to 2014. The findings of this study show that law enforcement has made significant improvement over time. Within the area of prevention, law enforcement increased its efforts in punishing offenders and enforcement operations. Protection efforts also increased by improved victim identification, which is shown by the increase in victim assistance. Federal prosecution and reporting efforts improved as well. State and local efforts focused on partnerships with federal agencies through the ECM and made moderate improvement on individual efforts. Each of these findings addresses the areas needing improvement identified by previous studies reviewed in chapter 2. The remainder of this chapter will provide the evidence and detailed analysis of the law enforcement efforts, which support the research conclusion.

Table 1. Law Enforcement Evaluation Summary from 2003 to 2014					
Evaluation Criteria	Prevention	Protection	Prosecution	Reporting	Law Enforcement Efforts
Punishment	↑				Sentencing, Restitution
Enforcement	↑				Annual Pro-Active Enforcement, Targeting, ECM, International Cooperation
Victim Identification		↑			ECM, Public Awareness
Victim Assistance		↑			Certifications Federal Benefits, T and U Visa
Federal			↑	↑	Investigations, Arrests, Indictments, Convictions
State, County, Local			≠	≠	Investigations, Arrests, Indictments, Convictions
Significant improvement from 2003-2014.....				↑	
Level of improvement not equivalent to Federal efforts				≠	

Source: Created by author

Prevention

U.S. law enforcement efforts significantly increased since 2003. Law enforcement increased prevention efforts through deterrence by punishment of offenders and enforcement operations. To measure punishment of offenders, a historical review of sentencing and restitution was conducted. This provided perspective on the level and

severity of punishment being issued. Maximum punishment for severe forms of HT is a stronger deterrent than lesser forms of punishment such as probation. Restitution is also a significant deterrent, which follows the same principle as sentencing. The higher the amount of restitution provides greater protection for victims and punishment for offenders. Enforcement operations were measured by the methods used for enforcement, the ECM. Punishment of offenders and enforcement operations, both targeted the pull factors (demand in the United States) identified in the literature review. The U.S. refinement and re-authorization of the TVPA to increase penalties, fines, restitution, and sentencing since 2003 increases law enforcement's ability to punish traffickers.

The sentences involving the trafficking offenses under Title 18 of the U.S. Code have increased. The sections under Title 18 include 1581 (peonage), 1583 (enticement for slavery), 1584 (sale into involuntary servitude), 1589 (forced labor), 1590 (trafficking with respect to peonage/slavery/involuntary servitude/forced labor), 1591 (sex trafficking of children or by force, fraud or coercion), 1592 (unlawful conduct with respect to documents in furtherance of trafficking), and 1594 (general provisions). A historical evaluation of the Attorney General's Annual Report to Congress show two key points. First is that the punishment for crimes involving HT has increased. Second, in 2014, two defendants received the max sentence of life in prison. These two points demonstrate the propensity of the United States to punish offenders for severe cases of HT. The historical evaluation of the report also shows an increase in defendants. From 2003 to 2014, the defendants sentenced under Title 18 increased from 12 to 254, which is a 2,016 percent increase.¹

Another form of deterrence is restitution for the victims of HT. DOJ reports do not place much emphasis on this, but do demonstrate another form of deterrence that accompanies a prison sentence. DOJ reports from 2003 to 2014 lack this analysis. Of the twenty-three cases highlighted in the DOJ report in 2014, eleven cases included restitution for victims. This represents a small portion of the cases prosecuted by the DOJ, but does demonstrate law enforcement ability to seek restitution for victims. The restitution varied, depended on severity and number of victims, but ranged from \$6,100 to \$3,700,000.²

Deterrence in the form of enforcement operations as a show of force both domestically and abroad have increased. These efforts have been largely due to the employment the Enhanced Collaborative Model (ECM) to create task forces. The DOJ implemented the ECM in 2010, and funded three task forces with a sole purpose of combating HT. In 2015, the number grew to fifteen, and does not include task forces funded and lead by federal agencies such as DHS and FBI. ECM task forces have been effective. An example this is the enforcement operations associated with major sporting events which include; the National Football League (NFL); Major League Baseball (MLB); National Basketball Association (NBA) League; National Hockey League (NHL); professional golf tournaments; college sports; and National Collegiate Athletic Association (NCAA) playoff events.

The NFL Super Bowl is an event that draws HT victims and offenses. A recent article in CBS News stated that the FBI and local law enforcement agencies arrested 360 sex buyers and sixty-eight traffickers and recovered thirty juvenile victims in a six-month operation in anticipation of the 2015 Super Bowl. In 2014, the FBI said authorities

recovered sixteen children between the ages of thirteen and seventeen and arrested more than forty-five pimps and their associates in Super Bowl-related operations.³ Targeting large sporting events is a form of deterrence to address the demand associated them.

Another example of effective enforcement operations and use of the ECM is the FBI's annual national enforcement operation, called Operation Cross Country (OCC). The OCC efforts focus on combating domestic commercial sexual exploitation of children through prostitution. From FY 2008 through FY 2014, the FBI conducted eight iterations of the OCC, each taking place over three to five day periods. FBI Field Divisions and their law enforcement partners participated in these operations by targeting venues such as street tracks, the Internet, truck stops, motels, and casinos where children are prostituted. Collectively, seventy Child Exploitation Task Forces around United States made up of law enforcement officers from over 450 federal, state, and local law enforcement agencies joined together to rescue child victims and apprehend those who victimize them. In 2014, 392 separate agencies participated in the eighth iteration of OCC (OCC VIII), which took place in 106 U.S. cities. OCC VIII resulted in 168 rescued victims and the arrest of 281 pimps.⁴

Joint efforts using the ECM extended outside the U.S. borders as well. Partnerships with foreign law enforcement agencies enabled law enforcement the ability to target offenders engaging in acts to recruit victims or engage in acts resulting from HT such as sex tourism. The case of Damion St. Patrick Baston is an example. In February 2015, Baston was sentenced to twenty-seven years in prison and ordered to pay over \$99,000 in restitution for sex trafficking by force, fraud, and coercion and related offenses arising from his scheme to exploit seven women for prostitution in the Middle

East, Australia, and the United States.⁵ This case was a result of the coordination between the South Florida Human Trafficking Task Force in Miami, DOJ federal prosecutors, as well as law enforcement officers and non-governmental organizations in Australia and the Dubai Police Department. This case demonstrates the ability to combat HT by enforcing its 2008 extraterritorial jurisdiction statute.

With the advancement of technology, offenders have exploited the use of the internet to commit, solicit, further efforts, and attempt to avoid detection by law enforcement. Through the ECM, crimes involving the internet have been successful prosecuted. An example is the case of Marvel Antonio Culp. In April of 2014, Culp was sentenced to fifteen years imprisonment and five years of supervised release after pleading guilty to sex trafficking a minor female. Culp used physical violence to force the fifteen-year-old female to engage in commercial sex acts. He posted advertisements offering the minor victim for sex via the website backpage.com, arranged meetings with customers, transported her to the sexual encounters, and forced her to prostitute herself on a known street of prostitution in Memphis. This case was a result of coordination between DOJ federal prosecutors, FBI, and Memphis Police Department.⁶

In summary, preventive deterrence in the form of sentencing has increased since 2003. Most notably, law enforcements resolve in punishing offenders to the full extent of the law, which is a life sentence. The examples of enforcement operations and the ECM demonstrate the law enforcement capability to combat HT domestically and internationally. It also demonstrates the agility to investigate and prosecute crimes involving the internet.

Protection

Applying the victim-centered approach in conjunction with enforcing the laws of the TVPA has been an issue for law enforcement. Issues stem from lack of training, awareness, and guidance. Since 2003, the TVPA mandated training to better inform and prepare law enforcement to identify the signs of HT in the field. These actions led to improved enforcement and identification of victims. Through victim identification, law enforcement is able to facilitate and provide the protection granted under the TVPA. To measure law enforcement efforts in providing protections, this section evaluated HHS certification and eligibility letters, as well as USCIS T and U visas. All these TVPA protections have one stipulation; victims must agree to cooperate with law enforcement to further investigations and prosecutions. An increase and steady rate of approval of these protections demonstrates law enforcement effectiveness and efficiency over time in substantiating victim claims. An increase of identified victims also provides law enforcement with the testimony to secure prosecutions of offenders. Another measure of effectiveness addressed in this section is law enforcement engagement with non-governmental agencies and the public. Partnerships and public outreach increase the ability to identify victims by providing other avenues for victims to report HT. These are the areas collectively measured over time to determine improvement of law enforcement efforts to provide protections under the TVPA.

The primary protections provided under the TVPA include temporary immigration status and federal benefits. Certifications and eligibility letters issued by HHS, which allow victims to qualify for federal benefits, do not adjust the status of the victim to remain in the United States. The two provisions that provide adjustment of

status are the T and U visas. The T visa is specifically for victims of HT and U is for victims of other qualified criminal activity but can also include HT. This metric served as a good indicator to measure law enforcements ability to identify victims. For a victim to qualify for adjustment of status under a T or U visa, the victim must be willing to aid law enforcement in furthering HT investigations by providing testimony. This requires investigation, qualification, and substantiating the victims claim, which validates the applicant as a victim of HT, making them eligible for, adjust of status. USCIS, in coordination with law enforcement, process T and U visas. There are caps to both visas; T visas at 5,000 and U visas at 10, 000. The T visa cap limit has not been reached. U visas reached the cap five times since 2009. This is due to the expanded scope of qualifying criminal acts included under the U visa. USCIS still accepts applications after the cap is reached and places them on a prioritized waiting list.

Since 2003, certification and eligibility letters provided by HHS rose. It is one of first protections provided by TVPA. Both provide immediate relief while victims wait for adjustment of status with a T or U visa. In 2003, HHS and law enforcement identified 151 (145 adults and 6 children) victims of trafficking eligible for federal benefits. This demonstrated the difficulty of victim identification in early in the prevention, protection, and prosecution TVPA strategy. By 2014, those numbers increased significantly, demonstrating an improved effort to implement a more victim-centered approach. From 2003 to 2014, the certifications increased 151 to 749. Of the 749, 530 were for adults and 219 for child. In 2014, the top five countries of origin for adults were Philippines, 31 percent; Mexico, 21 percent; Honduras, 6 percent; Guatemala, 5 percent; and 4 percent came from China. The top four countries of origin for children were Honduras,

Guatemala, El Salvador, and Mexico. Notably, 82 percent of children receiving certifications are from Central America.⁷ Victim certifications progressively increased over time. The increase demonstrates the improvement of law enforcement ability to identify victims. These all represent confirmed victims of HT that have agreed to assist in prosecutions. The demographic representing a majority from Mexico and Central America show a strong relation to the illegal immigration traffic trends along the Southern border.

A historical evaluation of the USCIS statistics also shows supporting evidence of an increase of identified victims from 2003 to 2014. In 2003, the USCIS approved only 2 percent of the applications received for adjustment of status under the T visa. This included 750 applications, of which 12 received approval, and denied 17. In 2014, USCIS approved 65 percent of the applications received. This included 944 applications, 613 approvals, and 153 denied applications. The processing time for T visas was not available for 2013, but in 2014, the average wait time was 5.9 months.⁸ The remainders of the applications with no disposition are pending administrative investigation and action to verify the victims' claims. The increase of approvals demonstrates law enforcements improvement over time in substantiating victim claims. The denied applications also support this finding, as identification of unsubstantiated claims has increased.

Up until 2007, USCIS issued temporary status to victims of qualified criminal activity. Unlike the T visa, which is specifically for victims of severe forms of HT, the U visa includes twenty-nine different qualified criminal acts. Adjudication of U visas began in 2009, in which USCIS also began tracking statistics for victims. In 2009, the USCIS approved 85 percent of the applications received for adjustment of status under the U

visa. This included 6,835 applications, of which 5,825 received approval, and 688 denied. In 2014, USCIS approved the maximum amount (10,000) of applications for adjustment of status under the U visa. The approvals derived from 26,039 applications, of which 4,056 received denial. The processing time for U visas was not available for 2003, but in 2014, the average wait time was 5.4 months.⁹ Similar to the T visa process, the applications with no disposition are pending administrative investigation and action to verify the victims' claims. The historical evaluation of the data from USCIS shows that USCIS approved the maximum amount of U visas every year since 2011. The steady rate of approvals also demonstrates law enforcements effectiveness and efficiency over time in substantiating victim claims. The denied claims also support these findings by identification of unsubstantiated claims.

The National Human Trafficking Resource Center (NHTRC) 24-hour a day, 7-days a week hotline provides information for victims of HT on where to seek aid since 2007. The hotline also serves as a reporting mechanism for victims or witness to report violations and offenders of HT. The trained personnel of the NHTRC screen the calls and forward cases requiring immediate attention to law enforcement for follow-up and further investigation. The NHTRC began tracking cases referred to law enforcement in 2008, the first full year of reporting. The following agencies received referrals from the NHTRC in 2014; the DOJ, FBI, ICE, law enforcement agents assigned to the National Center for Missing and Exploited Children (NCMEC), as well as state and local law enforcement and task forces. In 2008, the NHTRC referred 185 cases to law enforcement. No outcome was reported on the cases referred in 2008. In 2010, law enforcement began reporting outcomes to the NHTRC. That year law enforcement received 499 referrals and returned

outcomes on 249 cases, seventy-seven of which resulted in opening of an investigation. That amounts to 50 percent of the referrals receiving outcomes and 31 percent leading to investigations. In 2014, law enforcement received 1230 referrals and returned outcomes on 813 cases, 483 of which resulted in opening of an investigation. That amounts to 64 percent of the referrals receiving outcomes and 59 percent leading to investigations. The referrals from 2014 resulted in 106 rescued victims. This data demonstrates law enforcements collaborative efforts with a non-profit organization funded by the TVPA to identify victims of HT. It is also another example of the ECM in practice.¹⁰

Public awareness is another area where law enforcement has improved its efforts, which in turn improved its ability to identify victims. Research and statistics from the NHTRC call center does support this by the increase of calls from citizen's reporting crimes of HT. To increase efforts, law enforcement agencies have engaged in public outreach well as leveraged partnerships to educate the public to recognize human trafficking and report suspected instances. This is being accomplished through media, printed publications, and training. These efforts focus on law enforcement and others to increase detection and investigation of human trafficking, and to protect victims and bring suspected traffickers to justice. An example of this is the Department of Homeland Security Blue Campaign. The partnerships fostered under this campaign include first responders, social workers, community volunteers, healthcare providers, teachers, law enforcement; private, public and non-profit organization; faith based networks and houses of worship; and government agencies. The resources include posters, pamphlets, indicator cards, information sheets, and media announcements, online and telephonic

support.¹¹ The Blue Campaign and others like it, show law enforcement pro-active effort to raise awareness of the protections provided by the TVPA.

The TVPA provides protections for victims of HT and provide them through a collaborative effort between intergovernmental agencies and civilian humanitarian organizations. The stipulation for all protections is the cooperation with law enforcement to punish the offenders and organizations behind the criminal acts. Law enforcement verifies and validates victim's claims, which makes them eligible for protection under the TVPA. These protections speak to law enforcement efforts and effectiveness in identifying victims. The protections of certifications and eligibility letters, and T and U visas have increased since 2003. There are different factors that play into the increase, in victims, but with the current resources, the efforts have increased and improved over time. In the case of U visas, USCIS has approved the max number applications every year since 2010. The protections provided by the TVPA allow the victims to remain in the United States by providing temporary status and resources to work with law enforcement. The increase in number of identified victims provides law enforcement with the testimony to secure prosecutions of offenders. The proceeding section analyzes prosecutions in more depth.

Prosecution

To determine improvement of federal and state law enforcements prosecution efforts over time, this section evaluates the development of HT cases. The development of cases includes historical analysis of investigations, arrests, indictments, and convictions. This represents the investigative process law enforcement takes to prosecute offenders. An increase in each category demonstrates improvement. For example, an

increase in investigations, leads to an increase in arrests, indictments and convictions. This offers the complete picture of law enforcements prosecution efforts under the TVPA. The Trafficking Victims Protection Act (TVPA) of 2000 and reauthorizations of 2003, 2005, 2008, and 2013 established the legal framework for prosecuting traffickers. Other federal laws also aid law enforcement in securing prosecutions that have a nexus to HT such as the Tariff Act of 1930, Customs and Facilitations and Trade Enforcement Act of 2009, Racketeering Influenced Corrupt Organizations Act (RICO), Mann Act, Protect Act, and the National Defense Authorization Act of 2013. These make up the federal legal framework for prosecutions. The states also followed suit by passing state laws criminalizing HT, but not until three years later. It was not until 2012 that all fifty states had passed HT laws, to include the District of Columbia.¹²

With the legal framework in place, local and state law enforcement is able to arrest and prosecute traffickers at the state level. However, statistics show that at the local and state level, law enforcement struggle with investigations. In 2014, local and state law enforcement cleared only 32 percent of the commercial sex acts offenses detected. Meaning that only 32 percent was cleared by arrest, or solved for crime reporting purposes, in which at least one person is arrested, charged with the commission of the offense, and turned over to the court for prosecution. State and local law enforcement can also clear offenses by exceptional means. This includes the offender being prosecuted by state or local authorities in another city for a different offense or is prosecuted in another city or state by the federal government for an offense which may be the same; the denial of extradition; or prosecution is denied (for other than the lack of probable cause).¹³ With offenses of involuntary servitude, law enforcement cleared only 14 percent. Total, law

enforcement detected and investigated 443 offenses of which only 120 received an outcome by one of the means mentioned above. This amounts to 27 percent of offenses related to HT receiving an outcome by local and state law enforcement.¹⁴

At the federal level, the courts and law enforcement handle the majority of investigations, cases, and prosecutions involving HT. The agencies that lead the way are the Federal Bureau of Investigation (FBI), Immigration and Customs Enforcement (ICE) and Department of Justice (DOJ). To expand their efforts, all these agencies employ the ECM approach through task forces by incorporating local and state law enforcement. These agencies efforts have improved and increased since 2003, which has led to an increase in prosecutions. Each agency has seen an increase across of the board in HT cases, which can be attributed to factors outside the control of law enforcement. The proceeding sections will show the increase in cases by each agency and evaluate the agencies efforts over time.

The FBI has two distinct section for Human trafficking investigations. The FBI's Civil Rights Unit (CRU) is responsible for overseeing all human trafficking investigations involving adults (domestic or foreign), foreigners, and any sex trafficking cases involving foreign minor victims. The Violent Crimes against Children Section (VCACS) is responsible for investigating cases involving the commercial sexual exploitation of domestic minors. The CRU's efforts have increased significantly from 2003 to 2014. Analysis of statistics show an increase of investigations from 60 to 310, arrests from 32 to 525, indictments from 40 to 110, and convictions from 18 to 84. This shows an increase in all criteria, which demonstrates an improvement in case development. Further analysis shows that law enforcement also improved its efficiency in

developing cases, which led to increase probability of conviction. In 2003, 61 percent of investigations led to indictments. Only 45 percent of those indictments led to convictions. In 2014, 35 percent of investigations led to indictments and 76 percent of indictments led to convictions.¹⁵ Although a fewer percent of investigations led to indictments in 2014, the ones indicted saw increase probability of conviction. This can be interpreted as the cases being presented being more developed and stronger than those in 2003. This effort and effectiveness has improved with relatively little increase in the work force. In 2004, the FBI consisted of 12, 242 special agents.¹⁶ In 2012, the number increased to 13,913, which is only a 14 percent increase in workforce.¹⁷ This number is small divided up into the vast area of responsibility domestically and internationally.

VCACS efforts and effectiveness in developing cases involving the commercial sexual exploitation of domestic minors has also increased from 2003 to 2014. Analysis of statistics show an increase of investigations from 152 to 573, arrests from 118 to 2918, indictments from 38 to 361, and convictions from 22 to 387. VCACS also displays improved efficiency of case development through prosecution. In 2004, 25 percent of investigations led to indictments. Only 58 percent of those indictments led to convictions. In 2014, 63 percent of investigations led to indictments and 100 percent of indictments led to convictions.¹⁸ This information demonstrates an increase in overall effort and effectiveness in developing cases for prosecution. Of note, 100 percent of the cases involving commercial sexual exploitation of domestic minors indicted resulted in a conviction.

ICE's Homeland Security Investigations (HSI) is another federal law enforcement agency responsible for investigating cases of HT. HSI collaborates with state, tribal, and

local law enforcement to prosecute offenders and prevent human trafficking from occurring. Statistical analysis shows improvement of HSI efforts and effectiveness in developing cases from 2003 to 2014. Analysis shows an increase in investigations from 152 to 573, arrests from 118 to 2918, indictments from 38 to 361, and convictions from 22 to 387. Similar to the FBI, analysis also shows improvement in case development through prosecution. In 2005, 21 percent of investigations led to indictments. Only 17 percent of those indictments led to convictions. In 2014, 100 percent of investigations led to indictments and 80 percent of indictments led to convictions.¹⁹ This information demonstrates an increase in overall effort and effectiveness in developing cases for prosecution. Of note, unlike the FBI that received an increase in investigative work force, ICE special agent work force decreased from 8,000 in 2004 to 6,500 in 2014.²⁰ This is a significant reduction of investigative power. Regardless of work force, ICE effectiveness and efficiency improved overtime.

The previous sections evaluated law enforcements effectiveness overtime in developing cases, which consists of the investigative portion. The following is an analysis DOJ's effectiveness in prosecuting cases presented and developed by law enforcement. Two section of DOJ prosecute cases of HT, which are the Child Exploitation and Obscenity Section (CEOS) of the Criminal Division (CRM) and the Criminal Section of DOJ's Civil Rights Division's (CRT). This analysis will focus on the CRT. The CRT, in collaboration with United States Attorney's Offices (USAOs) nationwide, has principal responsibility for prosecuting human trafficking crimes, except for cases involving sex trafficking of minors. The CRT investigates and prosecutes novel, complex,

multijurisdictional, and international human trafficking cases, as well as human trafficking offenses involving transnational organized crime and financial crimes.

Since 2003, the CRT HT cases filed, defendants charged, and convictions have increased. From 2003 to 2014, cases filed have increased from 11 to 208. The defendants charged increased from 27 to 335. Convictions increased from 21 to 184. This information demonstrates an increase in capacity and focus to prosecute HT cases. Further analysis shows that in 2014 the percentage of defendants charged resulting in conviction dropped from 78 percent to 55 percent. Contrary to the increase in offenders prosecuted, the efficiency in securing prosecutions has dropped.²¹

Reporting

Reporting and data collection is important criteria to evaluate to validate the accuracy of data used in this evaluation. Federal agencies track their data using internal systems. Federal agencies track all cases, prosecutions, and victim data individually and summarize their statistics in annual reports. The DOJ, mandated by the TVPA and Congress, summarize all U.S. efforts in the Attorney General's Annual Reports to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons. This annual report and those of individual law enforcement agencies served as the basis of this thesis. One area not covered by the Attorney General's report is the state's law enforcement efforts. This is relatively new data being collected by the FBI, but will contribute to future analysis of law enforcement effort.

Since 2013, the FBI Uniform Crime Reporting (UCR) Program has been collecting offense and arrest data regarding human trafficking as authorized by the Trafficking Victims Protection Reauthorization Act of 2008. The act requires the FBI to

collect human trafficking offense data and to make distinctions between prostitution, assisting or promoting prostitution, and purchasing prostitution. The data collected by the UCR reflects the offenses and arrests recorded by state and local law enforcement agencies that currently have the ability to report the data to the national UCR Program. The UCR is capturing this data, but it is not included in the Attorney General report. There is also a gap in the collection of data. As of 2013, all fifty states to include the District of Columbia passed laws criminalizing HT. That means that all fifty states have defined and categorized the criminal act making it capable of tracking. Unfortunately, not all states are participating in this program. In 2013, only thirteen states began reporting data to the UCR. In 2014, the number increased to twenty-seven.²² That still leaves twenty-four states that are not reporting their statistics to the UCR. As mentioned before, some states are reporting data, but that is also limited to the agencies that participate within the state. For example, in 2008, a census of state and local law enforcement agencies shows the state of California to have five hundred law enforcement agencies.²³ As of 2014, no California law enforcement agencies, local or state, report to the UCR crimes involving HT.

As more states begin to report HT crime data to the UCR, a better picture of the tiered approach of local, state, and federal law enforcement is available for analysis. Including this data in the Attorney Generals annual report will provide a more comprehensive and U.S. government picture of efforts to combat HT. This would require all local and state law enforcement agencies to participate.

¹ U.S. Department of Justice, “Attorney General Archive.”

² Ibid.

³ Crimesider Staff, “FBI’s New Game-Plan to Fight Super Bowl Sex Trafficking,” *CBS News*, 13 January 2016, accessed 9 February 2016, <http://www.cbsnews.com/news/fbi-to-try-new-approach-in-super-bowl-sex-trafficking-fight/>.

⁴ Federal Bureau of Investigation, “Stories-Operation Cross Country,” The Federal Bureau of Investigation, 23 June 2014, accessed 16 May 2016, <https://www.fbi.gov/news/stories/2014/june/operation-cross-country>.

⁵ U.S. Department of Justice, “Man Using False Identity Convicted of International Sex Trafficking,” 1 July 2014, accessed 10 April 2016, <https://www.justice.gov/usao-sdfl/pr/man-using-false-identity-convicted-international-sex-trafficking>.

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⁷ U.S. Department of Justice, “Attorney General’s Annual.

⁸ U.S. Department of Homeland Security, “Data Set: Form I-914 Application for Nonimmigrant Status,” U.S. Citizenship and Immigration Service, 21 March 2016, accessed 28 April 2016, <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-914-application-t-nonimmigrant-status>.

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¹⁰ Polaris, “Hotline Statistics,” National Human Trafficking Resource Center, 2016, accessed 29 April 2016, <https://traffickingresourcecenter.org/states>.

¹¹ U.S. Department of Homeland Security, “Blue Campaign,” 15 October 2015, accessed 16 May 2016, <https://www.dhs.gov/blue-campaign/about-blue-campaign>.

¹² Polaris, “A Look Back: Building a Human Trafficking Legal Framework,” accessed 1 May 2016, <https://polarisproject.org/sites/default/files/2014-Look-Back.pdf>.

¹³ Federal Bureau of Investigation, Criminal Justice Information Service Division, “Uniform Crime Reports Human Trafficking,” 2014, accessed 1 May 2016, <https://www.fbi.gov/about-us/cjis/ucr>.

¹⁴ Ibid.

¹⁵ U.S. Department of Justice, “Office of Attorney General Archive, Attorney General’s Annual Report to Congress On U.S. Government Activities to Combat, Attorney Trafficking in Persons,” U.S. Department of Justice Archives, 2003-2014, accessed 2 May 2016, <https://www.justice.gov/archive/ag/anu-rpt.html>.

¹⁶ U.S. Department of Justice, Bureau of Justice Statistics, “Federal Law Enforcement Officers, 2004,” July 2006, accessed 2 May 2016, <http://www.bjs.gov/content/pub/pdf/fleo04.pdf>.

¹⁷ Federal Bureau of Investigation, “Today’s FBI Facts and Figures 2013-2014,” 2014, accessed 2 May 2016, <https://www.fbi.gov/stats-services/publications/todays-fbi-facts-figures/facts-and-figures-031413.pdf>.

¹⁸ U.S. Department of Justice, “Office of Attorney General Archive, Attorney General’s Annual Report to Congress On U.S. Government Activities to Combat, Attorney Trafficking in Persons,” U.S. Department of Justice Archives, 2003-2014, accessed 2 May 2016, <https://www.justice.gov/archive/ag/anu-rpt.html>.

¹⁹ Ibid.

²⁰ U.S. Department of Justice, “Office of Attorney General Archive, Attorney General’s Annual Report to Congress On U.S. Government Activities to Combat, Attorney Trafficking in Persons”; U.S. Department of Homeland Security, “Budget-in-brief Fiscal Year 2014,” Department of Homeland Security, 2014, accessed 2 May 2016, [https://www.dhs.gov/sites/default/files/publications/MGMT/FY%202014%20BIB%20-%20FINAL%20-508%20Formatted%20\(4\).pdf](https://www.dhs.gov/sites/default/files/publications/MGMT/FY%202014%20BIB%20-%20FINAL%20-508%20Formatted%20(4).pdf).

²¹ Ibid.

²² Criminal Justice Information Service Division.

²³ U.S. Department of Justice, Bureau of Justice Statistics, “U.S. Department of Justice Office of Justice Programs,” July 2011, accessed 2 May 2016, <http://www.bjs.gov/content/pub/pdf/cslla08.pdf>.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

Conclusion

The purpose of the research is to determine if the U.S. law enforcement strategy in applying the TVPA to combat human trafficking improved over time. To establish a baseline to measure improvement, a thorough review of literature identified previous evaluations. Unlike previous evaluations, this research provided a holistic view of law enforcement efforts in application and enforcement of the TVPA. TVPA effectiveness was measured along three axes; deterrence, victim identification, and prosecution. Reporting included what information is being captured by government reports and statistics. A qualitative, case study methodology was applied. This enabled the rich descriptive context and detailed explanation of the factors.

Law enforcement application of the 3P strategy and the enforcement of the TVPA improved over time. Shortfalls identified by the academic community and government agencies became the focus of law enforcement efforts to combat HT. Prevention efforts increased and took a proactive approach. The primary need for improvement under prevention was deterrence. Law enforcement did so by effectively addressing the demand for HT services, labor, and goods. The Enhanced Collaborative Model (ECM) Joint Task Forces planned and executed pro-active enforcement operations by targeting HT venues and events, such as Operation Cross Country and operations at sporting events across the country. The ECM also increased partnership with non-governmental agencies, and international partners. In 2014, through cooperation with international law enforcement agencies, law enforcement successfully prosecuted individuals for HT crimes committed

outside the United States involving recruitment, coercion, and sex tourism. These actions improved prosecutorial resolve. The increase in HT investigations and prosecutions supports these findings. Another improvement is Law enforcements increased punishment of offenders through stricter sentencing, restitution for victims, and fines. Punishment corresponded to the severity of the crimes. For example, the maximum sentence for HT under the TVPA is a life sentence. In 2014, two defendants received the maximum sentence for the HT crimes they committed. Law enforcement increase in prevention efforts demonstrates significant improvement in addressing the factors contributing to HT within the United States. Contrarily, law enforcement action to address the factors outside the United States is still insufficient. The increase in identified victims and solicitation for temporary immigration status is evidence. This suggests the flow of illegal immigration influences HT. Until, the United States increases efforts to address the factors at the countries of origin, the flow of illegal immigration will continue to influence HT in the United States.

To increase protections provided by the TVPA, law enforcement embraced a victim-centered approach. At the inception of the TVPA in 2003, law enforcement resisted victim identification and the implementation of a victim centered approach. This was mainly because of the strong enforcement approach. This created challenges for law enforcement to regain the confidence and trust from victims. By 2014, law enforcement largely embraced the victim-centered approach, producing a renewed trust from victims. Victims soliciting TVPA protections increased significantly. Evidence of this is seen in increased certifications, and temporary status applications. Inter-governmental and non-governmental partnerships established through the ECM assisted with the

implementation, which contributed to the improved efforts and effectiveness.

Partnerships and the victim centered approach created additional avenues for reporting HT, which assisted with victim identification. This, in turn, generated referrals to law enforcement agencies to pursue and investigate. This joint effort led to identifying victims that would not otherwise been rescued and protected. The increased efforts in the victim-centered approach and renewed trust in law enforcement provided crucial testimony for prosecutions.

Law enforcement increased efforts in prevention and protection increased efficiency and prosecutorial resolve. The proactive enforcement and use of the ECM to establish Joint Task Forces (JTF) increased federal responsiveness and ability to investigate and prosecute crimes of HT. The tiered legal framework at the state and federal level assisted JTFs to prosecute cases. Although the majority of cases are prosecuted federally, state and local law enforcement are capable under their legal framework to pursue a prosecution independently. The renewed victim trust in law enforcement increased cooperation, producing stronger evidence for indictments and conviction. These combined efforts since 2003 increased investigations, arrests, indictments, prosecutions, and convictions.

The final observation concerns the reporting and tracking of crime data. Federal reporting and tracking of data is well documented and presented in agency internal reports. Annual reports such as the Department of States (DOS) Trafficking in Persons (TIP) Report and Department of Justice Attorney General's Report to Congress summarize federal agency activities. Contrary to federal efforts, local and state efforts are not sufficiently documented. Since 2013, all fifty states passed legislation defining and

criminalizing HT crimes. Yet there is still very little data included in the Justice Department UCR reports. Not all states actively report to the UCR. Currently, only twenty-seven states provide data and statistics. Another issue is that not all agencies within the state have the infrastructure and capability to transmit data. Even the twenty-seven states reporting data are an incomplete representation of the total efforts of local and state law enforcement. JTF data is captured by the lead federal agency, mainly the FBI or ICE. Missing local and state data and statistics could fill a gap that would provide a clearer of U.S. law enforcement efforts.

Recommendations

Based on information in this study, recommendations include improved reporting, increased local and state law enforcement efforts, and increased foreign aid to build capacity to address contributing factors outside the United States. These will provide a holistic picture of law enforcement efforts and address factors that contribute to HT.

Although law enforcement agencies, at the local and state level participate in JTF's lead by federal agencies, there is a shortfall in independent investigation and prosecution at local and state level. All fifty states have the legal framework and laws to pursue independent cases of HT. Prosecution efforts should be tiered and run concurrently. Double jeopardy does not apply in these cases as they are in different jurisdictions. This approach adds another layer of enforcement and increases punishment of offenders found guilty in both courts.

Secondly, better tracking, categorization, and reporting of law enforcement efforts is needed. This area is not tracked sufficiently enough to provide useable analytic data. The DOJ's UCR program provides the platform to capture this data, but requires the

participation of all law enforcement agencies and states. Inclusion of this data in annual DOS and DOJ reports would provide a complete picture of the tiered response and efforts at the local, state, and federal levels.

Finally, increase foreign assistance. Efforts need to focus on establishing and or improving the legal framework and law enforcement capacity. U.S. law enforcement improved its efforts over time in applying the resources, protections and enforcing the laws of the TVPA. Unfortunately, every success was met with an increase in HT crimes incited by factors outside the United States. Many foreign countries do not have the legal framework or law enforcement capability to address HT issues. This affects not only HT but also all aspects of homeland security. With a solid legal framework and law enforcement, foreign countries can prevent the flow of HT victims and increase overall internal security.

Future Study

Four areas potentially have a nexus to HT. The first area is the impact of illegal immigration. The research suggests these issues are related; however, for this study, the two issues are separate. Establishing the effects illegal immigration has on HT could produce information to improve the TVPA strategy, contributing to prevention efforts, border security, and overall homeland security.

Second, there is very little information on state and local independent efforts to combat HT. This area requires further study because these efforts are not sufficiently documented or analyzed. To make comprehensive recommendations to improve U.S. efforts to combat HT, this data gap must be addressed in future research.

Third, law enforcement efforts to increase public awareness have increased over time; however, there are no studies to evaluate success rates of public awareness campaigns. A potential way to assess if an increase in public awareness programs leads to an increase in public reporting of suspected HT may include a study of call center reporting in areas of increased emphasis on public awareness. The expectation would be that increased reporting by the public indicates a successful awareness campaign. If confirmed, this study could provide insight on how the anti HT messaging is received and provide justification for increased funding for messaging and outreach.

Lastly, Department of Defense (DOD) provides a substantial amount of support to foreign countries, many of which are the countries of origin for HT. DOD focuses primarily on counter drug and terrorism operations outside the US. Studying the impact of DOD support and how it can be leveraged to address HT, can provide insight to additional resources and force multipliers. It can also be used as leverage to motivate foreign countries to increase efforts to fight HT.

Summary

Since the adoption of the 3P strategy in 2003, over time, U.S. law enforcement improved the application and enforcement of the TVPA laws. Law enforcement continues to adapt to address the new methods and trends of traffickers. The U.S. government continues to support and set the example for HT by reaffirming its commitment to combat HT by reauthorizing the TVPA. Each reauthorization improved legislation by further defining the criminal acts, expanding the scope, and provides funding. This support enables law enforcement with the tools and resources needed to implement actions to prevent HT, provide protections for victims, and prosecute

offenders and traffickers. In addition, increased efforts to address factors outside the United States are necessary.

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